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5 Attorneys for: Plaintiff Regan Carroll Trust

6 UNITED STATES DISTRICT COURT
7
8 NORTHERN DISTRICT OF CALIFORNIA
9
10 SAN FRANCISCO

10 REGAN CARROLL TRUST, Regan)	ACTION NO: 07-CV-2577 SBA
11 Carroll, trustee,)	
12)	
13 Plaintiff,)	PLAINTIFF AND DEFENDANTS'
14)	JOINT CASE MANAGEMENT
15 v.)	CONFERENCE STATEMENT
16)	
17 CITY AND COUNTY OF SAN)	Date: December 19, 2007
18 FRANCISCO, SAN FRANCISCO)	Time: 3:30 p.m.
19 DEPARTMENT OF BUILDING)	Judge: Hon. Sandra Brown
20 INSPECTION, SAN FRANCISCO)	Armstrong
21 BUILDING INSPECTION)	
COMMISSION, SAN FRANCISCO)	
PLANNING DEPARTMENT,)	
SAN FRANCISCO BOARD OF)	
APPEALS,)	
)	
Defendants.)	
)	

22 Plaintiff and Defendants submit the following Joint Case Management Statement:

23 JURISDICTION AND SERVICE

24 On May 15, 2007, Plaintiff filed a Complaint for Injunctive Relief and Damages
25 for Violation of Civil Rights. On September 5, 2007, Plaintiff served the Complaint on
26 all Defendants.
27

28 Plaintiff alleges that this Court has jurisdiction over this action pursuant to 42

1 U.S.C. § 1983 and 28 U.S.C. § 1331, in that the controversy arises under the United States
2 Constitution. Plaintiff alleges that venue is proper pursuant to 28 U.S.C. § 1391(a) in that
3 all Defendants reside in this judicial district, and the events giving rise to the claims
4 occurred in this district.

5
6 Defendants dispute that this Court has jurisdiction over this matter and, on
7 October 9, 2007, filed a Motion to Dismiss for Lack of Jurisdiction and Failure to State
8 a Claim or, in the Alternative, for Summary Judgment.

9
10 On October 30, 2007, Plaintiff filed a First Amended Complaint. Defendants
11 assert that the First Amended Complaint fails to cure the defects identified in
12 Defendants' Motion to Dismiss.

13 The parties have stipulated to extend the time in which Defendants may file a
14 responsive pleading to and including December 14, 2007.

15 FACTS and LEGAL ISSUES

16
17 Plaintiff alleges that this case arises out of the Defendants' unlawful delegation
18 of land use and decision-making to a private, powerful and influential neighborhood
19 group. As a result of this unlawful delegation of power, Plaintiff alleges that he was,
20 among other things, deprived of the Equal Protection of law in violation of the
21 Fourteenth Amendment of the United States Constitution and was retaliated against in
22 connection with exercising his First Amendment rights.

23
24 Defendants deny these allegations. In addition, Defendants seek dismissal, with
25 prejudice, of each claim for relief set forth in the First Amended Complaint on the basis

1 of this Court's lack of jurisdiction over one or more of Plaintiff's claims for relief (FRCP
2 12(b)(1)) and Plaintiff's failure to state claims upon which relief can be granted (FRCP
3 12(b)(6)). In the alternative, the City requests summary judgment under Rule 56.

4 MOTIONS

5
6 On October 9, 2007, Defendants filed a Motion to Dismiss for Lack of
7 Jurisdiction and Failure to State a Claim or, in the alternative, for Summary Judgment.

8 AMENDMENT OF PLEADINGS

9
10 On October 30, 2007, Plaintiff filed a First Amended Complaint for Injunctive
11 Relief and Damages for Violation of Civil Rights. In lieu of an opposition brief, Plaintiff
12 filed its First Amended Complaint. Defendants assert that the First Amended
13 Complaint fails to cure the defects identified in Defendants' Motion to Dismiss.

14 EVIDENCE PRESERVATION

15 The parties have preserved all evidence.

16 DISCLOSURES

17
18 The parties have met and conferred regarding the timing of discovery and
19 preparation of a discovery plan. The parties have concluded that it is appropriate to
20 delay initial disclosures pursuant to FRCP Rule 26 until after Defendants have
21 responded to the First Amended Complaint.

22 DISCOVERY

23
24 No discovery has been conducted to date. It is anticipated written discovery will
25 be propounded and depositions will be taken once Defendants have responded to the
26

operative Complaint.

RELATED CASES

Four related cases are pending in San Francisco County Superior Court: (1) *Regan Carroll Trust v. City and County of San Francisco, et al.*, Case No. CPF-06-506542 (dismissal requested by Plaintiff on July 5, 2007, but no dismissal entered by the court to date); (2) *Regan Carroll Trust v. City and County of San Francisco, et al.*, Case No. CGC 07-463565; (3) *Trust of Regan Carroll v. City and County of San Francisco, et al.*, Case No. CPF-06-506816; (4) *Regan Carroll Trust v. City and County of San Francisco, et al.*, Case No. CPF-07-507293 (stayed by stipulation of parties).

On August 14, 2007, the Honorable Patrick J. Mahoney ordered the cases identified above as numbers (2) and (3) consolidated for purposes of trial. On December 5, 2007, Judge Mahoney heard argument from counsel in Case No. CPF-06-506816 and took the writ petition under submission.

RELIEF

Plaintiff seeks an injunction and an award of monetary damages.

SETTLEMENT AND ADR

The parties have met and conferred and have stipulated to Early Neutral Evaluation pursuant to ADR Local Rule 5.

CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSE

Plaintiff will not consent to a magistrate judge. This case was originally assigned

1 to a magistrate judge. On May 16, 2007, Plaintiff filed a Declination to Proceed Before
2 a Magistrate Judge and a Request for Reassignment to a United States District Judge.

3 OTHER REFERENCES

4 None.

5
6 NARROWING OF ISSUES

7 Plaintiff believes the issues are narrowly tailored.

8 EXPEDITED SCHEDULE

9 Unknown at this time, but the parties are amenable to expediting this matter.

10 SCHEDULING

11
12 Once Defendants have responded to the First Amended Complaint, the parties
13 will meet and confer to discuss scheduling.

14 TRIAL

15 Plaintiff requests a jury trial and anticipates a 2-3 day trial.

16 DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

17 The parties have filed their Certifications of Interested Parties or Entities.
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26

1 Date: December 7, 2007

ZACKS UTRECHT & LEADBETTER, P.C.
235 Montgomery Street, Suite 400
San Francisco, CA 94104

4 By: 

Andrea Rosenthal
Attorneys for Plaintiff

6 Date: December ____, 2007

SAN FRANCISCO CITY ATTORNEY

9 By: _____

Kristen A. Jensen
Attorneys for Defendants

12 P001a - Joint Case Management Conference Statement.wpd

1 Date: December ____, 2007

ZACKS UTRECHT & LEADBETTER, P.C.
235 Montgomery Street, Suite 400
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4 By: _____

Andrea Rosenthal
Attorneys for Plaintiff

6 Date: December 7, 2007

DENNIS J. HERRERA
City Attorney
KRISTEN A. JENSEN
Deputy City Attorney

11 By: _____

Kristen A. Jensen
Attorneys for Defendants

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